

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Acting Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Tony Hammond

Competitive Product Prices
Global Expedited Package Services Contracts
Non-Published Rates

Docket No. MC2016-97

ORDER APPROVING REVISIONS TO MODEL CONTRACT

(Issued August 25, 2016)

I. INTRODUCTION

The Postal Service seeks approval of proposed revisions to the model contract for Global Expedited Package Services—Non-Published Rates 10 (GEPS—NPR 10) agreements.¹ For the reasons stated below, the Commission approves the revisions.

II. BACKGROUND

The Commission added GEPS—NPR 10 to the competitive product list and approved the original model contract in companion Docket Nos. MC2016-97 and

¹ Notice of the United States Postal Service Concerning Revisions to Global Expedited Package Services – Non-Published Rates 10 Model Contract, August 24, 2016 (Notice).

CP2016-122.² The Postal Service proposes revisions to the model contract and includes a revised model contract. Notice, Attachment 1 (Revised Model Contract).

Asserting that the penalty clauses for failure to meet minimum commitments are unneeded, the Postal Service proposes revisions to Articles 11 and 13.³ Notice at 1-2. Specifically, the Postal Service deletes paragraphs 2 and 3 of Article 11 (captioned “Minimum Commitment”). *Id.* at 1. The Postal Service also revises Article 13 (captioned “Termination of the Agreement”) by deleting the phrase “shall be enforceable but” with respect to the Article 11 minimum commitment requirement. *Compare* Original Model Contract at 4 with Revised Model Contract at 4.

The Postal Service asserts that the early termination and non-renewal options sufficiently incentivize customers to meet minimum commitments. Notice at 1-2. Representing that the financial workpapers for the GEPS—NPR 10 did not include any estimates related to these two clauses, the Postal Service asserts that the revenue estimates on the record remain unchanged. *Id.* at 2.

The Postal Service intends to include the proposed revisions in all GEPS—NPR 10 contracts issued to customers after the Commission completes its review. Notice at 2. After the Commission completes its review, the Postal Service intends to roll the revisions into existing GEPS—NPR 10 contracts. *Id.*

² See Docket Nos. MC2016-97 and CP2016-122, Order Concerning the Addition of Global Expedited Package Services—Non-Published Rates Contract 10 (GEPS—NPR 10) to the Competitive Product List, March 29, 2016 (Order No. 3189). The original model contract was included in the Request of the United States Postal Service to Add Global Expedited Package Services - Non-Published Rates 10 (GEPS – NPR 10) to the Competitive Products List and Notice of Filing GEPS – NPR 10 Model Contract and Application for Non-Public Treatment of Materials Filed Under Seal, March 15, 2016, Attachment 4 (Original Model Contract).

³ The Postal Service characterizes additional revisions to the GEPS—NPR 10 as minor. Specifically, the Postal Service adds items destined for any country included in Country Group E-2 to the exceptions for qualifying mail, requires customers not to tender or attempt tender to any country included in Country Group E-2, adds references to certain export control requirements related to items destined for Cuba, and revises references in Annex 4 to Article 46(1). See *id.* at 2 n.3; *compare* Original Model Contract at 1-3 with Revised Model Contract at 1-3.

III. COMMISSION ANALYSIS

The Postal Service proposes revisions to the model contract that, among other minor changes, eliminate the penalty clauses for a customer's failure to meet minimum requirements. The proposed revisions do not change prices. The Commission accepts the Postal Service's representation that the financial models did not rely on the penalties. Because the proposed revisions do not materially affect the underlying financial analysis, the Commission finds that the proposed revisions satisfy the requirements applicable to rates for competitive products. See 39 U.S.C. § 3633(a); 39 C.F.R. part 3015.

Based on its review of the Postal Service's Notice, the Commission approves the revisions for use in the model contract in GEPS—NPR 10 agreements filed after August 25, 2016. The Commission also authorizes the Postal Service to offer these modifications to customers who entered into GEPS—NPR 10 agreements based on the original model contract on or before August 25, 2016. The Commission directs the Postal Service to file signed modifications in the corresponding applicable docket.

IV. ORDERING PARAGRAPHS

It is ordered:

The Commission approves the revisions to the Global Expedited Package Services—Non-Published Rates 10 (GEPS—NPR 10) model contract.

By the Commission.

Stacy L. Ruble
Secretary